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INSPECTOR GENERAL

76-1029

DD/A Registry

76-2161

26 APR 1976

Executive Registry

76-7928

MEMORANDUM FOR: Director of Central Intelligence

FROM

: Donald F. Chamberlain
Inspector General

VIA

: Acting General Counsel
Deputy Director for Administration
Director of Security
Director of Communications

SUBJECT

: Personnel Grievance Case

1. Action Requested: This memorandum contains a recommendation for your approval in paragraph 4.

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2. Background: On 20 February 1976 three employees of the Office of Communications [redacted]

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[redacted] visited the Office of the Inspector General to issue a complaint regarding Agency policy on marriage to aliens. All three have recently married aliens and thus automatically lost their cryptographic clearances, a sine qua non for employment with the Office of Communications. All three had submitted requests to the DCI before their marriages asking for permission to remain employed with the Agency but the requests were denied. The rationale for their complaint is that the Agency policy on marriage to aliens [redacted] is illegal in that it is not applied equally. They argue that a number of DDO personnel have married aliens and have been allowed to remain in the employ of the Agency, but that Office of Communications personnel who marry aliens face automatic dismissal. They thus wish to appeal their case anew per [redacted]. The Office of Communications admits that its cryptographic clearance standards are more stringent than other U.S. foreign intelligence agencies. Attached herewith (Attachment A) is a COMSEC Staff paper which discusses the background and rationale for the CIA cryptographic clearance standards.

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EXECUTIVE REGISTRY FILE

IX

Executive Registry
Room 7-E-12
Headquarters**CONFIDENTIAL**

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CONCURRENCE:

[Redacted Signature]

Director of Security

7 May 76 25X1A
Date

[Redacted Signature]

Director of Communications

10 May 76 25X1A
Date

APPROVAL:

[Redacted Signature]

14 May 76 25X1A
Date

DISAPPROVAL:

Date

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c. The Congress treats the protection of cryptographic material as a matter of special concern. That concern is manifested in Public Law 513 passed in 1950 by the 81st Congress. The law prescribes a fine of not more than \$10,000 or imprisonment of not more than ten years, or both for whoever knowingly and willingly discloses information concerning the nature, preparations or use of a U.S. cryptographic system. All persons in CIA who are granted a cryptographic clearance read the law as a part of their indoctrination.

d. The President has acknowledged the need to protect cryptographic information from disclosure. In Executive Order 11652 which, inter alia, established a downgrading and declassification schedule for classified information, the President specifically exempted classified information or material pertaining to cryptography from scheduled downgrading and declassification.

X1A e. states that the marriage of an employee to an alien raises inherent issues of security and suitability which will likely preclude continued employment with the Agency unless they are offset by a determination that the employee's unusual abilities and potential are of

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overriding value to the Agency. If the issues of security and suitability are so grave as to be the cause for separation, are they not so grave as to cause the revocation of a clearance which may allow access to information of the sensitivity discussed previously?

f. The present criterion on marriage to aliens serves as a common reference point for all. If the criterion did not exist, each instance of marriage to a foreign national would have to be examined case-by-case. It is difficult to perceive how such a system could be objectively administered if the determinant for or against continued employment was the citizenship of the spouse. We might well find that a country aligned with the U.S. in 1975 would be aligned against us in 1980 if it judged such a reversal of position to be in its national interest. Moreover we could be besieged by aggrieved employees who felt their cases were improperly adjudicated - it could be an administrative nightmare.

g. Finally, Director of Central Intelligence Directive (DCID) No. 1/14, which sets out uniform

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standards and practices governing access to sensitive compartmented information³ requires that access to such information be limited to individuals who are U.S. citizens and whose immediate family members are U.S. citizens.⁴

³ The term "Sensitive compartmented information" as used in DCID 1/14 is intended to include all information and materials bearing special community controls indicating restricted handling within present and future community intelligence collection programs and their end products for which community systems of compartmentation have been or will be formally established.

⁴ There are provisions for exceptions to this criterion when there is a compelling need and a determination has been made by competent authority as described elsewhere in DCID 1/14.

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DRAFT

Dear Mr. _____:

My office has investigated your complaint that the Agency policy on marriage to aliens is illegal in that it is not applied equally. We have carefully reviewed our procedures in this area in light of the questions you have raised and must conclude, for the reasons to be set forth below, that the policy is both legally sound and equitably administered by the Agency.

The applicable Headquarters regulation at states, in part, that a cryptographic clearance may be granted only to an employee or staff agent whose "close relatives" are United States citizens. Whether or not the requirement that a cryptographically cleared employee's spouse be a U.S. citizen is too harsh is, of course, a matter of subjective judgment. None could argue soundly that an employee's loyalty to the United States will be influenced by the ties of love and affection to his or her foreign spouse. On the other hand, a reasonable and prudent person would be obliged to concede that those bonds of love and affection do present a potential conflict of loyalties for the employee. It is this very possibility that the standard

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seeks to eliminate. All employees in the Office of Communications, including yourself, have understood and accepted this special standard at the time of their entrance on duty. It is not dissimilar to the polygraph examination - many find it personally repugnant, but all accept it as a condition of employment. It might also be likened to the truly ethical public servant who recognizes that not only must he avoid impropriety itself, he must avoid any appearance of impropriety.

X1A With respect to the question of whether Agency policy in this area is administered on a fair and equitable basis, reference is made to which sets out the general CIA policy that the marriage of an employee to an alien raises inherent issues of security and suitability which will preclude continued employment with the Agency unless they are offset by a determination that the employee's unusual abilities and potential are of overriding value to the Agency. It is true that, consistent with this policy, a number of Agency personnel have married aliens and have been allowed to remain in the employ of the Agency. Nevertheless, as indicated above, the extraordinarily critical sensitivity of the duties assigned to the Office of Communications continues to warrant, in our view, a correspondingly stringent

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